

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

KENNETH C. GROVES, SR.,

Plaintiff,

-v.-

Civil Action No.
9:09-cv-412 (GLS/DEP)

THE STATE OF NEW YORK; NEW YORK
STATE OFFICE OF MENTAL HEALTH;
MICHAEL HOGAN, PHD, Commissioner,
O.M.H; CENTRAL NEW YORK PSYCHIATRIC
CENTER; DONALD SAWYER, PHD, MBA,
Executive Director, C.N.Y.P.C.; TERI
MAXYMILLIAN; PHD, Director S.O.T.P.,
C.N.Y.P.C.; CHARMAINE BILL, Treatment Team
Leader, Ward 304; and JEFF NOWICKI,

Defendants.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

KENNETH C. GROVES, SR.
Plaintiff, *Pro Se*
#166237
Central New York Psychiatric Center
P.O. Box 300
Marcy, New York 13403

FOR THE DEFENDANTS:

HON. ANDREW M. CUOMO
Attorney General of the
State of New York
The Capitol
Albany, New York 12224

CHRISTINA L. ROBERTS-RYBA,
ESQ.
Assistant Attorney General

GARY L. SHARPE,
U.S. DISTRICT JUDGE

ORDER

The above-captioned matter comes to this court following a Report-Recommendation by Magistrate Judge David E. Peebles, duly filed March 1, 2010. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

ORDERED, that the Report-Recommendation of Magistrate Judge David E. Peebles filed March 1, 2010 is ACCEPTED in its entirety for the reasons state therein, and it is further

ORDERED, that defendants' motion to dismiss (Dkt. No. 7) is GRANTED and that plaintiff's claims for deprivations of due process and adequate medical care and those against defendants Hogan, Nowicki, and Sawyer is DISMISSED, with leave to amend, and that plaintiff's claim for violation of the Sixth Amendment as well as those against the State of New York, the CNYPC and the OMH is DISMISSED without leave to replead, and it is further

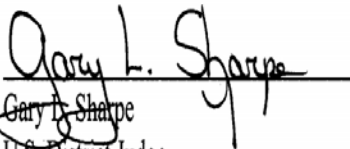
ORDERED, that if Groves wishes to proceed with this action, he must file an amended complaint, which complies the terms of this Order, **within thirty (30) days** from the filing date of this Order; and it is further;

ORDERED that should Groves fail to comply with the terms of this Order, within the time period specified above, the Clerk shall enter judgment dismissing this action **without prejudice** without further Order of this Court; and it is further

ORDERED, that the Clerk of the court serve a copy of this order upon the parties in accordance with this court's local rules.

IT IS SO ORDERED.

Dated: March 26, 2010
Albany, New York


Gary L. Sharpe
U.S. District Judge